

SIMTEK6915

IN THE UNITED STATES PATENT OFFICE

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DEC 20 2005

In re Application of
Ryoji Kaneko

App. No.: 10/709971
Filed: 6/10/2004
Conf. No.: 3970
Title: BRUSH TYPE DC ELECTRIC MACHINE
Examiner: E. Preston
Art Unit: 2834
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

I hereby certify that this correspondence
and all marked attachments are being filed
via fax to (571) 273-8300 on:

December 20, 2005



Ernest A. Beutler
Reg. No. 19901

**PETITION REQUESTING COMMISSIONER
TO EXERCISE SUPERVISORY AUTHORITY**

Dear Sir:

The Commissioner is most respectfully requested to exercise his supervisory authority and direct the Examiner to enter the amendment filed by fax on December 5, 2005, as not raising a "new issue".

The facts in support of this request are as follows:

This application as filed was directed to an improved rotary electrical machine that "prevent phase shift as a result of energization of rotating coils in opposite directions". This is done by winding the coils of the phases so that "electrical energy flowing through adjacent coil pairs in the same circuit is in opposite directions upon rotation of the machine". Of course as the machine rotates the current flow through a given coil reverses as the machine rotates and it is this reversal that causes the problem.

This characteristic of opposite flow directions at instantaneous conditions is shown in the various figures of the drawings. The references cited by the Examiner in the first Office Action and in his final rejection do not disclose this feature. However like all machines the flow direction through each coil reverses as the machine rotates.

For the first time in his final rejection the Examiner stated the way in which he was reading the claim language in a way not intended by applicant's attorney. In the Final Rejection the Examiner first stated his reading of the claim language by stating that the flow through each coil was in opposite directions "upon rotation" thus placing a different interpretation on the claim language than intended and as made clear when considering the application as a whole. Applicant did not believe that the clarified claim language was anticipated, but if the Examiner still felt as stated during the interview, he was solicited to enter the amendment as it would have clarify the issue on appeal and would result in the

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Examiner's agreement that at least some claims are allowable and thus reduce the issues on appeal without raising any new issue, as it merely avoided a misunderstanding between the claim meaning between the Examiner and the undersigned.

However in the Advisory Action, mailed December 19, 2005, but not yet received by the undersigned in the mail, the Examiner now takes the position that this raises a "new issue". This ignores the fact that it was clear from the application that this is what applicant's attorney intended to and thought he had claimed. Since the invention was clearly described in the specification Section 904.3 states "It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment." Thus it is most respectfully submitted that the amendment should be entered for the Appeal filed concurrently herewith.

Respectfully submitted:



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